

# Cicala Declaration

## Exhibit B

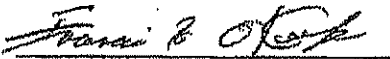
**PHARMACEUTICAL LITIGATION DEMONSTRATION PROJECT**

**WHEREAS**, Warren County is a plaintiff in COUNTY OF WARREN v. ABBOTT LABORATORIES, INC. et al., a federal lawsuit alleging that the defendants have caused overpayments in New York's Medicaid program as a result of fraudulent inflation of Average Wholesale Prices and improper calculations of Medicaid rebate payments; and

**WHEREAS**, Warren County has applied to the Department of Health to have the above-referenced litigation be approved as a demonstration project pursuant to section 5 of Part C of chapter 58 of the laws of 2005, such that any local district share of recoveries resulting from such litigation obtained on or after January 1, 2006 would be exempt from the local district cap methodology enacted pursuant to such chapter law; and

**WHEREAS**, such section 5 provides that savings from any such demonstration project are to be certified by the Director of the Division of the Budget;

**NOW, THEREFORE**, Francis X. O'Keefe, Chief Financial Officer of Warren County and Robert B. Phelps, Commissioner of Social Services of Warren County, agree that, as a condition of the Department of Health's approval of such demonstration project application, any non-federal share of such recoveries will be shared between the Department of Health and Warren County based on the relative historical contributions of the two entities to Medicaid drug costs in Warren County.

  
Francis X. O'Keefe

Dated: 12/16/05

  
Robert B. Phelps

Dated: 12/16/05



## MADISON COUNTY DEPARTMENT OF LAW

**S. JOHN CAMPANIE**  
County Attorney  
**TINA M. WAYLAND-SMITH**  
First Assistant County Attorney  
**ANTHONY M. WILMARTH**  
Second Assistant County Attorney

PO Box 635  
N. Court Street  
Wampsville, NY 13163  
315/366-2203  
or 315/361-8442  
Fax: 315/366-2502

December 13, 2005

Mr. Brian J. Wing, Deputy Director  
Office of Medicaid Management  
State of New York, Department of Health  
Corning Tower  
The Governor Nelson A. Rockefeller Empire State Plaza  
Albany, NY 12237

Re: Pharmaceutical Litigation Demonstration Project

Dear Mr. Wing:

Enclosed please find an executed copy of the acceptance form and one copy of the Madison County Resolution.

If this was sent to your attention in error, please forward to the appropriate party or kindly call me at the phone number above, so that I may send the paperwork to the appropriate person.

Thank you for your courtesies.

Sincerely,

A handwritten signature in dark ink, appearing to read "Anthony M. Wilmarth", is written over a horizontal line.

Anthony M. Wilmarth

AMW/mjl

Encl.

✓cc: Joanne M. Cicala, Kirby, McInerney & Squire, LLP

RESOLUTION NO. 431

**AUTHORIZING THE MADISON COUNTY TREASURER TO ENTER INTO A  
MEMORANDUM OF UNDERSTANDING**

**WHEREAS**, the County of Madison is responsible for an average of twenty five percent of Madison County citizen's pharmaceutical drug costs covered by Medicaid; and

**WHEREAS**, both Federal and State laws require the pharmaceutical industry to follow certain billing practices when charging Medicaid for prescription drugs, including both generic and brand name drugs; and

**WHEREAS**, the County of Madison, along with several other Counties and States, is alleging that various components of the pharmaceutical industry have violated these laws, and thereby overcharged the County of Madison on several drugs paid for by Medicaid; and

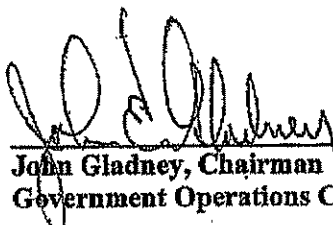
**WHEREAS**, the laws of New York State prevent the County from recovering these funds unless the funds are recovered as part of a Litigation Demonstration Project; and


**WHEREAS**, the New York State Government has agreed that this litigation against the pharmaceutical companies is such a Litigation Demonstration Project; and

**WHEREAS**, for the County of Madison to recover monies from this litigation against the various pharmaceutical industry, the Treasurer must sign and agree to the terms of the Memorandum of Understanding entitled "Pharmaceutical Litigation Demonstration Project" currently on file with the Clerk of the Board; and

**NOW, THEREFORE, BE IT RESOLVED**, that Madison County Treasurer is herein and hereby authorized to sign the Memorandum of Understanding entitled "Pharmaceutical Litigation Demonstration Project" as is on file with the Clerk of the Board of Supervisors; and

**DATED: DECEMBER 9, 2005**

  
\_\_\_\_\_  
John Gladney, Chairman  
Government Operations Committee

  
\_\_\_\_\_  
Scott Henderson, Chairman  
Finance, Ways, and Means

## PHARMACEUTICAL LITIGATION DEMONSTRATION PROJECT

WHEREAS, the County of Madison is a plaintiff in County of Madison v. Abbot Laboratories, Inc., et al., a federal lawsuit alleging that the defendants have caused overpayments in New York's Medicaid program as a result of fraudulent inflation of Average Wholesale Prices and improper calculations of Medicaid rebate payments; and

WHEREAS, the County of Madison has applied to the Department of Health to have the above-referenced litigation be approved as a demonstration project pursuant to section 5 of Part C of chapter 58 of the laws of 2005, such that any local district share of recoveries resulting from such litigation obtained on or after January 1, 2006 would be exempt from the local district cap methodology enacted pursuant to such chapter law; and

WHEREAS, such section 5 provides that savings from any such demonstration project are to be certified by the Director of the Division of the Budget;

NOW, THEREFORE, Harold Landers, chief financial officer of the County of Madison agrees that, as a condition of the Department of Health's approval of such demonstration project application, any non-federal share of such recoveries will be shared between the Department of Health and the County of Madison based on the relative historical contributions of the two entities to Medicaid drug costs in the County of Madison.

[s]   
Harold Landers, Treasurer

Dated: DECEMBER 13, 2005



OFFICE OF COUNTY ATTORNEY  
CORTLAND COUNTY  
60 CENTRAL AVENUE, CORTLAND NY 13045  
607-753-5095  
FAX: 607-756-3489

**COPY**

JOHN L. BARDSLEY  
COUNTY ATTORNEY

EDWARD R. PURSER  
ASST. COUNTY ATTORNEY

FRANCIS J. CASULLO  
ASST. COUNTY ATTORNEY

SHERRY DAVENPORT  
PARALEGAL

December 16, 2005

New York State Department of Health  
Corning Tower  
The Governor Nelson A. Rockefeller Empire State Plaza  
Albany NY 12237

Re: Pharmaceutical Litigation Demonstration Project

Dear Sir or Madam:

Enclosed please find the executed Memorandum of Understanding on behalf of Cortland County.

Very truly yours,

  
John L. Bardsley  
County Attorney

JLB/kr

Ccc: Kirby McInerney & Squire, LLP Attn: Joanne Cicala, Esq.



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

PHARMACEUTICAL LITIGATION DEMONSTRATION PROJECT

WHEREAS, Cortland County [~~the City of New York~~] is a plaintiff in Cortland County v. Abbott Laborat., a federal [~~state~~] lawsuit [~~could be multiple lawsuits~~] alleging that the defendants have caused overpayments in New York's Medicaid program as a result of fraudulent inflation of Average Wholesale Prices and improper calculations of Medicaid rebate payments [~~a few cases also allege patent violations~~]; and

WHEREAS, Cortland County [~~the City of New York~~] has applied to the Department of Health to have the above-referenced litigation be approved as a demonstration project pursuant to section 5 of Part C of chapter 58 of the laws of 2005, such that any local district share of recoveries resulting from such litigation obtained on or after January 1, 2006 would be exempt from the local district cap methodology enacted pursuant to such chapter law; and

WHEREAS, such section 5 provides that savings from any such demonstration project are to be certified by the Director of the Division of the Budget;

NOW, THEREFORE, Donald F. Ferris, chief financial officer of Cortland County [~~the City of New York~~] agrees that, as a condition of the Department of Health's approval of such demonstration project application, any non-federal share of such recoveries will be shared between the Department of Health and Cortland County [~~the City of New York~~] based on the relative historical contributions of the two entities to Medicaid drug costs in Cortland County [~~the City of New York~~].

[s] Donald F. Ferris

Dated: 12/12, 2005

OFFICE OF THE

County Attorney  
JOHN L. RIZZO



Assistant County Attorneys  
DAVID L. METZLER  
DANIEL M. DI MATTEO  
PAULA A. CAMPBELL  
DURIN B. ROGERS  
COLLEEN S. HEAD

COUNTY ATTORNEY

December 15, 2005

Brian J. Wing, Deputy Director  
Off of Medicaid Management  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

RE: Memorandum of Understanding  
County of Genesee - State of New York

Dear Mr. Wing:

Enclosed please find the requested Memorandum of Understanding between the above referenced parties, executed by Mary Pat Hancock, Chairperson of the Genesee County Legislature. Once executed by your department, please return a copy to me for my files. Please contact me immediately by telephone if there are any questions.

Very truly yours,

  
John L. Rizzo  
Genesee County Attorney

JLR/lac  
enclosure

XC: Joanne Cicala, Esq.

OLD COUNTY COURTHOUSE

7 Main Street  
Batavia, New York 14020

Telephone: (585) 344-2550 (Ext. 2205)





December 15, 2005

Brian J. Wing, Deputy Director  
Office of Medicaid Management  
State of New York, Department of Health  
Corning Tower, Room 1466  
The Governor Nelson A. Rockefeller Empire State Plaza  
Albany, NY 12237

**Dutchess  
County  
Attorney**

Re: Medicaid Drug Overcharge  
Our File No. L-4222

William R. Steinhaus  
County Executive

Ronald L. Wozniak  
County Attorney

Anthony De Rosa  
Chief Assistant

22 Market Street  
Poughkeepsie  
New York  
12601  
(845)486-2110  
Fax (845)486-2002

Dear Mr. Wing:

Enclosed please find the Pharmaceutical Litigation Demonstration Project,  
Memorandum of Understanding signed by Pamela Barrack, Chief Fiscal Officer.

Please contact me if you require anything further.

Very truly yours,

S/

Keith P. Byron  
Senior Assistant County Attorney



bcc: ✓ Joanne M. Cicala, Esq.  
Kirby McInerney & Squire, LLP

**PHARMACEUTICAL LITIGATION DEMONSTRATION PROJECT**

**WHEREAS**, the County of Dutchess is a plaintiff in County of Dutchess v. Abbott Laboratories, Inc., 05 CV 6458, a federal lawsuit alleging that the defendants have caused overpayments in New York's Medicaid program as a result of fraudulent inflation of Average Wholesale Prices and improper calculations of Medicaid rebate payments; and

**WHEREAS**, the County of Dutchess has applied to the Department of Health to have the above-referenced litigation be approved as a demonstration project pursuant to section 5 of Part C of chapter 58 of the laws of 2005, such that any local district share of recoveries resulting from such litigation obtained on or after January 1, 2006 would be exempt from the local district cap methodology enacted pursuant to such chapter law; and

**WHEREAS**, such section 5 provides that savings from any such demonstration project are to be certified by the Director of the Division of the Budget;

**NOW, THEREFORE**, Pamela Barrack, Chief Financial Officer of Dutchess County agrees that, as a condition of the Department of Health's approval of such demonstration project application, any non-federal share of such recoveries will be shared between the Department of Health and Dutchess County based on the relative historical contributions of the two entities to Medicaid drug costs in Dutchess County.

Dated: November 29, 2005

  
Pamela Barrack  
Chief Financial Officer



**CAYUGA COUNTY  
OFFICE OF COUNTY ATTORNEY**

160 Genesee St., 6<sup>th</sup> Floor  
Auburn, New York 13021  
Telephone: (315) 253-1274  
Fax: (315) 253-1098  
E-Mail: [fwestphal@cayugacounty.us](mailto:fwestphal@cayugacounty.us)

Assistant County Attorney  
Jill L. Terry

Social Services Attorneys  
Samuel P. Giacona  
Daniel A. Testa, III

**COUNTY ATTORNEY  
FREDERICK R. WESTPHAL**

Paralegal  
Melissa L. Field

December 13, 2005

Brian Wing, Deputy Director  
Office of Medicaid Management  
State of New York  
Department of Health  
Corning Tower  
The Gov. Nelson A. Rockefeller Empire State Plaza  
Albany, NY 12237

Re: APW ACTION  
CAYUGA COUNTY, et al v.  
ABBOTT LABORATORIES, INC., et al  
05-CV-0423

Dear Mr. Wing:

Enclosed please find Cayuga County's executed Pharmaceutical Litigation Demonstration Project MOU.

Should you require further assistance or information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Frederick R. Westphal", is written over a faint, larger version of the same signature.

**FREDERICK R. WESTPHAL**  
County Attorney

FRW:jtv

Enc.

cc w/enc: Joanne M. Cicala, Esq. ✓  
Kirby McInerney & Squire, LLP  
830 Third Avenue  
New York, NY 10022

COPY



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonla C. Novello, M.D., M.P.H., Dr.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

PHARMACEUTICAL LITIGATION DEMONSTRATION PROJECT

05-CV-0423 WHEREAS, Cayuga County [the City of New York] is a plaintiff in Cayuga County, et al Abbott Laboratories, Inc. et al, a federal [state] lawsuit [could be multiple lawsuits] alleging that the defendants have caused overpayments in New York's Medicaid program as a result of fraudulent inflation of Average Wholesale Prices and improper calculations of Medicaid rebate payments [a few cases also allege patent violations]; and

WHEREAS, Cayuga County [the City of New York] has applied to the Department of Health to have the above-referenced litigation be approved as a demonstration project pursuant to section 5 of Part C of chapter 58 of the laws of 2005, such that any local district share of recoveries resulting from such litigation obtained on or after January 1, 2006 would be exempt from the local district cap methodology enacted pursuant to such chapter law; and

WHEREAS, such section 5 provides that savings from any such demonstration project are to be certified by the Director of the Division of the Budget;

NOW, THEREFORE, David Farrell, chief financial officer of Cayuga County [the City of New York] agrees that, as a condition of the Department of Health's approval of such demonstration project application, any non-federal share of such recoveries will be shared between the Department of Health and Cayuga County [the City of New York] based on the relative historical contributions of the two entities to Medicaid drug costs in Cayuga County [the City of New York].

[s]

David Farrell  
Dated: 12/9/05, 2005

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